

REMARKS

Claims 1-10 are pending in the application, and stand rejected.

Rejection under 35 U.S.C §112

Claim 2 stands rejected under 35 U.S.C. 112 as being indefinite for failing to particularly point out and distinctly claim the subject matter which Applicants regard as the invention. In particular, the Examiner rejects claim 2 for lacking sufficient antecedent basis for the term “electronic security data.” Applicants have amended claim 2 to replace this term with “electronic security device” as suggested by the Examiner.

Rejection under 35 U.S.C §102

Claims 1-2, 4-5, 8 and 10 stand rejected under 35 U.S.C. 102(b) as being anticipated by U.S. Patent No. 5,721,781 to Deo. In particular, the Examiner finds that, with regard to claims 1, 5 and 8, Deo discloses all of the claimed limitations. Applicants have reviewed the reference with care, paying particular attention to the passages cited, and are compelled to respectfully disagree with the Examiner’s characterization of this reference. Deo teaches a method whereby a smart card and a terminal authenticate each other by exchanging certificates. There is nothing in Deo that could be understood as teaching the acquiring of an integrity metric, as claimed, via a boot-up process, as claimed. All that Deo teaches, regarding the certificates, is that they can contain “an expiration date, the holder’s serial number, a public encryption key... information pertaining to the domain or environment within which the holder may operate (e.g. financial, frequent flyer, health, etc.) and any other information appropriate to establish communication.” (col. 6, ll. 7-14)

In order to make the differences discussed above between Deo and the presently claimed invention clearer, Applicants have amended claims 1, 5 and 8 to specifically recite that the integrity metric is indicative of at least one operating variable associated with the electronic terminal. Support for this amendment may be found throughout the specification, including, *inter alia*, pages 13 through 15. Applicants respectfully submit that, in light of the clarifying

amendments presented herein, claims 1, 5 and 8 are in fact patentable over Deo. Should the Examiner disagree, Applicants respectfully request him to clearly and specifically point out where Deo discloses the acquiring of an integrity metric, in accordance with 37 C.F.R. 1.104(c)2.

Claims 2, 4 and 10 are dependent on claims 1, 5 and 8, respectively. In view of the above discussion with regards to claims 1, 5 and 8, Applicants respectfully submit that their dependent claims 2, 4 and 10 are also novel and allowable.

Rejection under 35 U.S.C §103

Claims 3 and 6 stand rejected under 35 U.S.C. 103(a) as being unpatentable over Deo in view of U.S. Pat. No. 6,694,436 to Audebert, claim 7 as unpatentable over Deo, Audebert and further in view of U.S. Pat. No. 6,772,331 to Hind, and claim 9 as unpatentable over Deo in view of U.S. Pat. No. 5,272,754 to Boerbert.

Claims 3, 6, 7 and 9 depend from claims 1, 5 and 8, respectively. "If an independent claim is nonobvious under 35 U.S.C. 103, then any claim depending therefrom is nonobvious." *In re Fine*, 837 F.2d 1071, 5 USPQ2d 1596 (Fed. Cir. 1988). Therefore, in light of the above discussion of claims 1, 5 and 8, Applicants submit that claims 3, 6, 7 and 9 are also allowable.

Regarding the prior art made of record by the Examiner but not relied upon, Applicants believe that this art does not render the pending claims unpatentable.

Applicants further present new claims 11-17. These claims are all directed to originally filed subject matter, and no new matter is added by these claims. A sheet showing the calculation of the excess claims fee is enclosed. Please charge the amount of \$200.00 for the excess claims fee to deposit account number 08-2025.

In view of the above, Applicants submit that the application is now in condition for allowance and respectfully urge the Examiner to pass this case to issue.

The Commissioner is authorized to charge any additional fees which may be required or credit overpayment to deposit account no. 08-2025. In particular, if this response is not timely filed, the Commissioner is authorized to treat this response as including a petition to extend the time period pursuant to 37 CFR 1.136(a) requesting an extension of time of the number of months necessary to make this response timely filed and the petition fee due in connection therewith may be charged to deposit account no. 08-2025.

I hereby certify that this correspondence is being deposited with the United States Post Service with sufficient postage as first class mail in an envelope addressed to: Mail Stop Amendment, Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450 on

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(Date of Transmission)

Mia Kim

(Name of Person Transmitting)

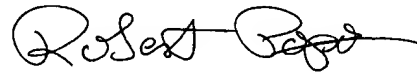


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(Date)

Respectfully submitted,



Robert Popa

Attorney for Applicants

Reg. No. 43,010

LADAS & PARRY

5670 Wilshire Boulevard, Suite 2100

Los Angeles, California 90036

(323) 934-2300 voice

(323) 934-0202 facsimile

rpopa@ladasparry.com